

## General Sales, Delivery and Payment Conditions of Adolf Föhl GmbH & Co. KG

### 1. General information - Oral ancillary agreements - Offers

- 1.1 The following General Sales, Delivery and Payment Conditions (hereinafter referred to as the “**CONDITIONS**”) apply exclusively to all deliveries and services (hereinafter jointly referred to as the “**SERVICE(S)**”) by Adolf Föhl GmbH & Co. KG (hereinafter referred to as “**FÖHL**”) to the customer (hereinafter referred to as the “**CUSTOMER**”). Any contrary, deviating, or other conditions of the CUSTOMER that are not defined in these CONDITIONS shall not be recognized by FÖHL, unless FÖHL has expressly agreed that they shall apply in writing.

This is also the case if FÖHL completes SERVICES without reservation with knowledge of the contrary, deviating, or other conditions of the CUSTOMER not set forth in these CONDITIONS, or if the CUSTOMER refers to its conditions as being applicable in its inquiry, order, or otherwise in conjunction with carrying out the contract.

- 1.2 These CONDITIONS shall apply only to companies in the sense of Sec. 14 BGB (German Civil Code).
- 1.3 FÖHL salespersons are not entitled to conclude oral ancillary agreements.
- 1.4 If not expressly otherwise agreed, offers by FÖHL are non-binding. Orders from the CUSTOMER shall only be binding for FÖHL if FÖHL confirms them in writing, or has accepted them through delivery or service, or through issuing an invoice.
- 1.5 If not expressly otherwise agreed, images, drawings, calculations, and other product-, application-, or project-specific documents that contain valuable knowledge or information (hereinafter referred to as the “**DOCUMENTS**”) shall remain the property of FÖHL, and shall be subject to FÖHL's copyright, even if FÖHL provides them to the CUSTOMER; the CUSTOMER may not duplicate the DOCUMENTS without the prior written approval of FÖHL, nor otherwise make them accessible to third parties.

### 2. Prices

- 2.1 If not expressly otherwise agreed, prices from FÖHL are net prices and apply "ex works" to the location named by FÖHL in the offer or acceptance or, if the offer/acceptance does not indicate any intended destination, "ex works" 73635 Rudersberg, Federal Republic of Germany (according to the INCOTERMS in their current valid version, current INCOTERMS 2020).

Costs for packaging, transportation, and insurance shall be invoiced separately by FÖHL, unless otherwise expressly agreed.

- 2.2 If the purchase prices which FÖHL must pay to purchase the materials change between the time the individual contract is concluded between the CUSTOMER and FÖHL and the time when FÖHL purchases materials to manufacture the goods under the individual contract - meaning if they are higher or lower - then FÖHL is entitled to change the sales price to the CUSTOMER according to the extent of all changes existing at the time (e.g., increases and reduction) in the purchase prices for all materials. However, the change may only be made for the part of the sales price corresponding to the purchase prices for these materials.

If FÖHL takes advantage of this right to adjust prices, then FÖHL will provide the Customer with all information relevant for the changed cost factors in written form and in a clear and understandable manner upon request.

### 3. Delivery - Delivery term - Force majeure - Partial deliveries

- 3.1 If not otherwise expressly agreed, the agreed times for SERVICES are not fixed dates (Sec. 323 para. 2 no. 2 BGB, Sec. 376 HGB - German Commercial Code).

- 3.2 Terms for the SERVICES shall begin only once all details have been clarified and both contractual partners have come to an agreement on all conditions of the contract. The following requirements apply, in particular, to compliance with the delivery and service terms:
- The CUSTOMER must promptly submit all documents to be provided by the CUSTOMER to FÖHL;
  - The CUSTOMER must promptly provide all approvals and permits it is required to obtain;
  - The CUSTOMER must fulfill all obligations, in particular its payment obligations, promptly and in full.
- 3.3 If not otherwise expressly agreed, the delivery term shall be considered complied with if the goods have left the respective FÖHL production plant within the agreed delivery term.
- 3.4 In the case of call-off contracts without an agreed delivery term, production batch sizes and acceptance deadlines, FÖHL is entitled to request a binding definition of these from the CUSTOMER at the latest three months after the order confirmation, unless otherwise expressly agreed. If the CUSTOMER does not fulfill this request within three weeks, FÖHL is entitled to set a two-week grace period and withdraw from the contract and/or request claims for damages after this period.
- 3.5 Deadlines for SERVICES by FÖHL shall be extended accordingly if failure to comply with these deadlines was due to force majeure, e.g., an unforeseeable event over which FÖHL has no influence and for which FÖHL is not responsible. This is also the case if such an incident of force majeure occurs during a default of delivery, or occurs to one of FÖHL's preliminary suppliers. Incidents of force majeure include, in particular, official measures and orders - regardless of whether they are valid or invalid - wars, revolutions, embargoes, pandemics, epidemics, fire, earthquakes, floods, storms, explosions, or other natural catastrophes.
- If FÖHL is not able to perform the SERVICES within a reasonable time period due to an incident of force majeure, then both parties have the right to withdraw from the contract in question in whole or in part. The same applies if it subsequently becomes impossible to fulfill the contract and this is not the responsibility of FÖHL. There shall be no claims for damages due to such a withdrawal.
- 3.6 FÖHL shall be released from its delivery obligation if FÖHL itself does not receive the correct deliveries of goods/supplied parts necessary to fulfill the contract, without being culpable for this, and if FÖHL has concluded a congruent hedging transaction with the supplier. FÖHL is furthermore obligated to inform the CUSTOMER promptly and promptly reimburse the CUSTOMER for any return services already received.
- 3.7 Insofar as it is reasonable for the CUSTOMER, FÖHL is entitled to carry out partial deliveries and services and can invoice these separately.
- 3.8 If the SERVICE is delayed at the request of the CUSTOMER or due to circumstances for which the CUSTOMER is responsible, then FÖHL is entitled to charge the CUSTOMER for costs incurred for storage after notification is sent that goods are ready for shipment, and at least 0.5% of the invoice amount for each week or partial week, or a maximum of 10% of the invoice total. Both parties may verify that higher, lower, or no storage costs were incurred. Statutory rights to withdraw from the contract and request claims for damages shall remain unaffected.
- 3.9 FÖHL shall be liable for default according to statutory regulations in consideration of the restrictions regulated under clause 8 of these CONDITIONS, with the following caveat:
- If the default was caused by simple negligent, and FÖHL is not subject to mandatory liability due to an injury to life, body, health, or because it has accepted a warranty or the purchasing risk, then FÖHL's liability for delay damages shall be limited such that the CUSTOMER can request 0.5% for each full week of delay, and a maximum total of 5% of the price for the part of the SERVICES that cannot be put into useful operation due to the delay. This does not result in any change in the burden of proof to the detriment of the CUSTOMER. The CUSTOMER's statutory right of withdrawal shall remain unaffected.

## **4. Delivery conditions - transfer of risk - INCOTERMS - transportation insurance**

- 4.1 If not expressly otherwise agreed, delivery is provided "ex works" to the location named by FÖHL in the offer or acceptance or, if the offer/acceptance does not indicate any intended destination, "ex works" 73635 Rudersberg, Federal Republic of Germany (according to the INCOTERMS in their current valid version, current INCOTERMS 2020).
- 4.2 If not otherwise expressly agreed, the risk of accidental destruction and accidental deterioration of goods shall be transferred to the CUSTOMER upon handover of goods to the transportation personnel, and at the latest when the goods leave the delivery warehouse. This also applies if FÖHL has taken over responsibility for the delivery. If the shipment of goods is delayed due to the culpability of the CUSTOMER, the risk shall be transferred from FÖHL from the time at which FÖHL has reported to the CUSTOMER that the goods are ready to ship.
- 4.3 If the contract uses international customary shipping and transfer of risk clauses, these shall be interpreted according to the international regulations for interpreting commonly used contractual formulations (INCOTERMS in the current valid version, currently INCOTERMS 2020).

## **5. Dimensions - weights - delivery quantities**

- 5.1 The DIN and EN standards apply for compliance with dimensions. Otherwise, FÖHL provides dimensions and weights in its offers and order confirmations to the best of its knowledge. If not otherwise expressly agreed, and insofar as this would be reasonable for the CUSTOMER, minor deviations, in particular excess or reduced weights due to casting technology, shall not entitle the CUSTOMER to file a complaint.
- 5.2 Due to the unique features of the metal casting process, excess or reduced deliveries of up to 10% are permitted from the agreed quantity of goods in series production.

## **6. Defect claims - complaint obligations**

- 6.1 Statutory regulations apply to the rights of the CUSTOMER for material defects and defects of title (including incorrect or reduced deliveries and improper assembly/installation or incorrect operating instructions), unless otherwise specified in the following.
- 6.2 The primary basis of FÖHL's defect liability is the agreement concluded to stipulate the properties and intended use of the goods (including accessories and instructions). If the parties have agreed to specific properties and the intended use of the goods, objective requirements for the purchased object shall not apply in this respect.
- 6.3 If the properties have not been agreed, then whether or not a defect exists shall be assessed based on statutory regulations (Sec. 434 para. 3 BGB). Public statements by the manufacturer or third parties on its behalf, in particular in advertisements or on the label of the product, shall take precedence over statements by other third parties.
- 6.4 FÖHL and the CUSTOMER agree that, in case of a claim for supplementary performance (correction or supplementary delivery), the less expensive option shall be selected as long as this does not result in any disadvantages for the CUSTOMER.
- 6.5 The CUSTOMER shall provide FÖHL with the time and opportunity needed to provide the supplementary performance it owes, in particular to hand over goods about which complaints have been made for testing purposes. In case of a replacement delivery, the CUSTOMER shall return the defective goods to FÖHL at the request of FÖHL pursuant to statutory regulations; however, the CUSTOMER shall have no claim to have these returned. Supplementary fulfillment includes neither the disassembly, removal, or de-installation of defective goods, nor the installation, attachment, or integration of goods that are free from defects if we were not

originally obligated to provide these services; claims of the CUSTOMER to reimburse relevant costs ("removal and installation costs") shall remain unaffected.

- 6.6 If the complaint proves to be legitimate, FÖHL shall bear the costs necessary for the purpose of supplementary fulfillment, as long as this does not result in any unreasonable burden for FÖHL, in accordance with statutory regulations and these CONDITIONS if there actually was a defect.
- 6.7 If the expenses necessary for the purpose of supplementary fulfillment increase because the CUSTOMER has used the goods at a different location besides the place of fulfillment after delivery, then the CUSTOMER shall bear the additional costs incurred.
- 6.8 If it becomes clear in the course of supplementary fulfillment that there is no defect, FÖHL can request reimbursement from the CUSTOMER for the costs incurred due to the illegitimate request to correct the defect, if the CUSTOMER was aware, or was not aware due to negligence, that there actually was no defect.
- 6.9 The CUSTOMER shall inform FÖHL promptly in writing after delivery of complaints due to incomplete or defective deliveries (obvious defects), or after the defect is discovered. Otherwise, the assertion of claims for defects shall be excluded. If goods are intended for installation or other further processing, then inspections shall always be carried out directly before the processing.
- 6.10 FÖHL does not agree to any restriction to the investigation and complaint obligations of the CUSTOMER (in particular as a result of Sec. 377 HGB and Art. 38, 39 CISG).
- 6.11 Defect claims shall expire within 12 months from the transfer of risk. This shall not apply if the law pursuant to Sections 438 para. 1 no. 2, 438 para. 3, 479 para. 1 and Sec. 634a BGB specify longer limitation periods, nor for liability for damages resulting from an injury to life, body, or health, nor for liability for damages resulting from an intentional or grossly negligent breach of duty.
- 6.12 Defect claims are excluded, among other instances, in case of:
- delayed or improper investigation and submission of complaints for the defect according to clause 6.9 and clause 6.10 of these CONDITIONS;
  - subsequent unauthorized changes to the goods, unless the defect can be verified to have not been caused by these changes;
  - defects resulting from natural wear and tear, improper use, or improper storage of the goods.
- 6.13 The CUSTOMER can only request reimbursement for damages from FÖHL according to clause 8 of these CONDITIONS.

## **7. Intellectual property rights - defects of title**

- 7.1 If not expressly otherwise agree, FÖHL is obligated to perform the SERVICES only in the manufacturing country or the country of delivery, free from commercial property rights of third parties. "**PROPERTY RIGHTS**" in the sense of these CONDITIONS are patents, utility and registered models, trademarks, including applications for registration for said rights, and copyrights. If a third party makes legitimate claims against the CUSTOMER due to the violation of PROTECTED RIGHTS as a result of SERVICES performed by FÖHL and used in accordance with the contract, then FÖHL shall be liable to the CUSTOMER during the term stipulated in clause 6.11 of these CONDITIONS as follows:
- 7.2 FÖHL shall, at its discretion and at its own cost, either obtain a right of use for the SERVICES in question, or change or replace this right so that the PROTECTED RIGHT is not violated. If this is not possible for FÖHL to do at reasonable conditions, the CUSTOMER shall have a statutory right to withdraw from the agreement or reduce its compensation. FÖHL's obligation to pay damages shall be determined according to clause 8 of these CONDITIONS.

- 7.3 The above obligations shall exist only if (a) the CUSTOMER has informed FÖHL promptly regarding the claims asserted by the third party in writing, (b) the CUSTOMER did not recognize a violation, and (c) FÖHL reserves the right to take any measures to prevent the claim and engage in settlement negotiations.
- 7.4 Claims shall be excluded if the CUSTOMER is solely responsible for the violation of protected rights.
- 7.5 Claims by the CUSTOMER are furthermore excluded if and insofar as (a) the violation of protected rights was caused by specialized specifications of the CUSTOMER, (b) due to a use which was not foreseeable by FÖHL, or (c) because the CUSTOMER changed the SERVICES subsequently without authorization.
- 7.6 Further or other claims against FÖHL or its agents than those regulated in clause 7 of these CONDITIONS due to a defect of title are excluded.
- 7.7 If any results created in the course of carrying out the contractual obligations can be registered for protected rights, then FÖHL shall be entitled to all protected rights to this result, unless the CUSTOMER played a significant part in creating the results. In such cases, or in all other cases in which results which can be registered for protected rights were created jointly, FÖHL and the CUSTOMER agree that FÖHL shall be entitled at least to a non-exclusive right of use, free of charge and unlimited in time, space, and content.

## 8. Liability

- 8.1 FÖHL shall be liable to the CUSTOMER for damages and reimbursement of wasted expenditures in the sense of Sec. 284 BGB (hereinafter referred to as "**CLAIMS FOR DAMAGES**") due to defects in the SERVICES or violations of other contractual or non-contractual obligations, in particular due to unlawful actions, only in cases of intentional action or gross negligence. The above limitation of liability shall not apply in case of injury to life, body, or health, if a warranty is provided or purchasing risk is accepted, or in case of violations of significant contractual obligations or liability under the Product Liability Act.
- 8.2 The CLAIMS FOR DAMAGES due to a violation of significant contractual obligations shall be limited to reimbursement of typical damages for the contract which FÖHL should have been able to predict when the contract was concluded based on circumstances known to FÖHL, except in cases of intentional action and gross negligence, or due to an injury to life, body, or health, if a warranty is provided or purchasing risk is accepted, or in case of liability under the Product Liability Act.
- 8.3 The foreseeable damages typical for the contract in the sense of clause 8.2 of these CONDITIONS are:
- (a) per loss event: Maximum damages of the net purchase price for the contract in question.
  - (b) per calendar year: Maximum damages of the net revenues at which the CUSTOMER purchased goods from FÖHL in the previous calendar year. During the first year of the contract, maximum damages of the net revenues at which the CUSTOMER purchased goods from FÖHL until the damage occurred.
- 8.4 In every case, foreseeable damages typical for the contract in the sense of clause 8.2 of these CONDITIONS shall not include indirect damages (such as lost profits or damages resulting from interruptions to production).
- 8.5 Regardless of clauses 8.3 and 8.4 of these CONDITIONS, when determining the amount FÖHL shall pay to the CUSTOMER as CLAIMS FOR DAMAGES, the economic circumstances of FÖHL, the type, scope and duration of the business relationship, any causation or culpability contributions of the CUSTOMER according to Sec. 254 BGB, and any particularly poor installation situation of the product must be taken into account to a reasonable extent to the benefit of FÖHL. In particular, the CLAIMS FOR DAMAGES for which FÖHL is responsible must be reasonable based on the value of the goods.

- 8.5 All restrictions of liability shall also apply in case of breaches of duty by persons if FÖHL is responsible for their culpability under the law.
- 8.6 The above regulations shall not result in any change in the burden of proof to the detriment of the CUSTOMER.
- 8.7 Significant contractual obligations in the sense of clauses 8.1 and 8.2 of these CONDITIONS are those obligations that must be fulfilled for the contract to be properly carried out, and which the CUSTOMER should regularly be able to trust will be fulfilled.

## 9. Payment conditions - offsetting - securities - assignment

- 9.1 If not otherwise expressly agreed, the CUSTOMER shall make its payments net within 30 days of the invoice date, but not before goods are received.
- 9.2 The CUSTOMER shall be entitled to rights of offsetting or retention only if their counter-claims have been established in a court of law, if they are undisputed or have been recognized by FÖHL, or if they are in a close mutual relationship to the claims of FÖHL.
- 9.3 Furthermore, the CUSTOMER is only entitled to exercise a right of retention if their counter-claim is based on the same contractual relationship.
- 9.4 If there are factual reasons to believe that the asset situation of the CUSTOMER has worsened after the contract was concluded, or other facts after the contract was concluded or identifiable facts that would justify an assumption that FÖHL's claim to return services is endangered because of the CUSTOMER's inability to pay, then FÖHL is entitled to request reasonable securities for the SERVICES and/or revoke any payment deadlines granted, including for other claims. If the CUSTOMER does not provide the reasonable securities requested by FÖHL within a reasonable time period, FÖHL can withdraw from the contract in question. Previously existing claims from SERVICES performed or due to default shall likewise remain unaffected as FÖHL's rights under Sec. 321 BGB.
- 9.5 Claims resulting from the contractual relationship can only be assigned with the prior written approval of FÖHL. There shall be no claim to grant such approval. Sec. 354a HGB shall remain unaffected.

## 10. Retention of ownership

- 10.1 FÖHL shall remain the owner of the goods until all current and future liabilities of the CUSTOMER from the ongoing business relationship with FÖHL are paid. This also applies if the price for certain goods designated by the CUSTOMER has been paid. If the retention of ownership is linked to specific requirements or formal regulations in the CUSTOMER's country, then the CUSTOMER is obligated to inform FÖHL of this and ensure they are fulfilled at its own cost.
- 10.2 If the CUSTOMER behaves in a manner that violates the contract, in particular by not paying the purchase price due, then FÖHL shall be entitled to withdraw from the contract in accordance with the law and request goods sold under a retention of ownership (hereinafter referred to as the "**RESERVED GOODS**") be returned. The request for return shall also contain a declaration of withdrawal from the contract. If the CUSTOMER does not pay the purchase price due, FÖHL may only assert these rights if FÖHL has previously provided the CUSTOMER with a reasonable payment term without success, or if setting such a term is not required by law.
- 10.3 If RESERVED GOODS are combined or mixed with other goods or processed this shall always be done on behalf of FÖHL as the manufacturer, but without any obligations for FÖHL. If the (co-)ownership expires due to combining, mixing, or processing, the parties hereby already agree that (co-)ownership of the new goods shall be transferred to FÖHL on a proportional basis depending on the ratio between the invoiced amounts of the combined, mixed, or processed products. The CUSTOMER shall safeguard the (co-)ownership on behalf of FÖHL without charge.

- 10.4 Resellers are entitled to resell the RESERVED GOODS in the normal course of business until this right is revoked. FÖHL can revoke this right if (a) the CUSTOMER ceases making payments, (b) the CUSTOMER is in default of payment, or (c) if there are factual reasons to believe that the CUSTOMER's asset situation has worsened after the contract was concluded, or other facts after the conclusion of the contract that would justify an assumption that FÖHL's claim for return performance is endangered due to the CUSTOMER's inability to pay.
- 10.5 The CUSTOMER hereby already assigns its claims resulting from a resale or other legal basis to FÖHL in the invoiced amount for the RESERVED GOOD, by way of a security, for RESERVED GOODS to which FÖHL is entitled to (co-)ownership. Upon request by FÖHL, the CUSTOMER is obligated to provide written declarations of assignment. The CUSTOMER is entitled to collect the assigned claims in its own name in the course of normal business, although this right can be revoked. FÖHL can revoke the entitlement to collect claims under the same conditions as the right to resell goods in the normal course of business.
- 10.6 Pledging or transferring the RESERVED GOODS by way of security is not permitted. The CUSTOMER must inform FÖHL promptly if there is a motion made to open bankruptcy proceedings, or any seizure, distraint, or other disposition by a third party.
- 10.7 Upon request by the CUSTOMER, FÖHL shall release the securities at its own discretion if the value of the securities exceeds FÖHL's claims by more than 10%.

## **11. Workpiece-specific models and production equipment**

- 11.1 If the CUSTOMER provides FÖHL with models or production equipment (such as casting molds; hereinafter referred to as "**EQUIPMENT**"), the CUSTOMER shall send the EQUIPMENT to FÖHL free of charge. The CUSTOMER is obligated to take the EQUIPMENT back at any time at the request of FÖHL. If the CUSTOMER does not fulfill such a request within 14 days, FÖHL is entitled to send the goods back to the CUSTOMER at its own cost.
- 11.2 Costs for maintenance and requested changes to the EQUIPMENT shall be borne by the CUSTOMER.
- 11.3 The CUSTOMER shall be liable for ensuring the design of the EQUIPMENT is technically correct and appropriate for the purpose of manufacturing. However, FÖHL is entitled to make changes due to the casting technology used. If not expressly otherwise agreed, FÖHL is not obligated to review the EQUIPMENT to ensure it conforms with enclosed drawings or samples.
- 11.4 If FÖHL produces or purchases EQUIPMENT at the request of the CUSTOMER, the CUSTOMER shall compensate FÖHL for costs incurred in this respect. If the full costs were not charged, the CUSTOMER shall also bear the remaining costs, if it does not accept the quantities planned at the time the contract was concluded. The EQUIPMENT produced or purchased by FÖHL shall remain the property of FÖHL; it shall be used exclusively for SERVICES to the CUSTOMER during the term of the applicable contract.
- 11.5 If it is agreed in deviation from this that the CUSTOMER is the owner of the EQUIPMENT, then ownership of the EQUIPMENT shall be transferred to it upon payment of the purchase price. The handover of EQUIPMENT shall be replaced by an obligation on FÖHL's part to safeguard the equipment. The safeguarding relationship may be terminated by the CUSTOMER at the earliest 2 years after the transfer of ownership, unless otherwise expressly agreed.
- 11.6 FÖHL shall treat all EQUIPMENT with the same level of care which FÖHL shows in handling its own property. Upon request by the CUSTOMER, FÖHL shall insure the EQUIPMENT at the cost of the CUSTOMER.

## **12. Parts to be cast**

- 12.1 The CUSTOMER shall deliver FÖHL parts to be cast free of charge; they must be ready to cast and adhere to correct dimensional tolerances. Required processing costs shall be borne by the CUSTOMER.



12.2 The number of cast parts must exceed the number of ordered castings to a reasonable extent.

**13. Place of fulfillment - place of jurisdiction - applicable law**

13.1 The place of fulfillment for all obligations resulting from the contractual relationship is Rudersberg, Federal Republic of Germany.

13.2 The district court of Schorndorf shall be agreed as the place of jurisdiction for legal disputes falling under the objective responsibility of the district courts, and the state court of Stuttgart shall be agreed as the place of jurisdiction for legal disputes falling under the objective responsibility of the state courts. FÖHL is also entitled to bring suit at the headquarters of the CUSTOMER at its discretion.

13.3 German law shall apply exclusively, with the exclusion of conflict of laws provisions.